**Senate Bill No. 559**

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Passed the Senate September 9, 1999

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*Secretary of the Senate*

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Passed the Assembly September 8, 1999

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this _____ day

of _____, 1999, at _____ o'clock ____M.

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*Private Secretary of the Governor*

CHAPTER _____

An act to add Section 511.1 to the Business and Professions Code, to add Section 1395.6 to the Health and Safety Code, to add Section 10178.3 to the Insurance Code, and to add Section 4609 to the Labor Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 559, Brulte. Health care providers: preferred rates.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Corporations. Under existing law, a willful violation of health care service plan requirements is a crime. Existing law also provides for the regulation of insurers by the Department of Insurance.

This bill, effective July 1, 2000, with respect to contracts providing for the payment of preferred reimbursement rates by payors for health care services rendered by health care providers, would impose certain disclosure and related requirements on contracting agents, as defined, who sell, lease, assign, transfer, or convey a list of contracting providers and their contracted preferred reimbursement rates to other payors or contracting agents. This bill would impose certain requirements on payors who seek to pay a preferred reimbursement rate, and would provide that the failure to comply with these requirements renders the payor liable to pay the nonpreferred rate, as specified. This bill would define ''payor'' for these purposes to generally include a health care service plan, a specialized health care service plan, a disability or liability insurer, a workers' compensation insurer, an employer, or any other 3rd party that is responsible to pay for health care services provided to beneficiaries by health care providers. This bill would enact other related provisions.

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, this bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 511.1 is added to the Business and Professions Code, to read:

511.1. (a) In order to prevent the improper selling, leasing, or transferring of a health care provider's contract, it is the intent of the Legislature that every arrangement that results in any payor paying a health care provider a reduced rate for health care services based on the health care provider's participation in a network or panel shall be disclosed to the provider in advance and shall actively encourage patients to use the network, unless the health care provider agrees to provide discounts without that active encouragement.

(b) Beginning July 1, 2000, every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care providers and their contracted reimbursement rates to a payor or another contracting agent shall, upon entering or renewing a provider contract, do all of the following:

(1) Disclose whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

(2) Disclose what specific practices, if any, payors utilize to actively encourage a payor's beneficiaries to use the list of contracted providers when obtaining medical care that entitles a payor to claim a contracted rate. For

purposes of this paragraph, a payor is deemed to have actively encouraged its beneficiaries to use the list of contracted providers if one of the following occurs:

(A) The payor offers its beneficiaries direct financial incentives to use the list of contracted providers when obtaining medical care. ‘‘Financial incentives’’ means reduced copayments, reduced deductibles, premium discounts directly attributable to the use of a provider panel, or financial penalties directly attributable to the nonuse of a provider panel.

(B) The payor provides information directly to beneficiaries advising them of the existence of the list of contracted providers through the use of a variety of advertising or marketing approaches that supply the names, addresses, and telephone numbers of contracted providers to beneficiaries in advance of their selection of a health care provider, which approaches may include, but are not limited to, the use of provider directories, or the use of toll-free telephone numbers or internet web site addresses supplied directly to every beneficiary. However, internet web site addresses alone shall not be deemed to satisfy the requirements of this subparagraph. Nothing in this subparagraph shall prevent contracting agents or payors from providing only listings of providers located within a reasonable geographic range of a beneficiary.

(3) Disclose whether payors to which the list of contracted providers may be sold, leased, transferred, or conveyed may be permitted to pay a provider’s contracted rate without actively encouraging the payors’ beneficiaries to use the list of contracted providers when obtaining medical care.

(4) Disclose, upon the initial signing of a contract, and within 30 calendar days of receipt of a written request from a provider or provider panel, a payor summary of all payors currently eligible to claim a provider’s contracted rate due to the provider’s and payor’s respective written agreements with any contracting agent.

Nothing in this subdivision shall be construed to require a payor to actively encourage the payor’s beneficiaries to

use the list of contracted providers when obtaining medical care in the case of an emergency.

(c) A contracting agent shall allow providers, upon the initial signing, renewal, or amendment of a provider contract, to decline to be included in any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care as described in paragraph (2) of subdivision (b). Each provider's election under this subdivision shall be binding on every contracting agent or payor that buys, leases, or otherwise obtains a list of contracted providers.

(d) A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(e) A payor shall provide an explanation of benefits or explanation of review that identifies the name of the plan or network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

(f) A payor shall demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has received a claim payment from the payor. The failure of a payor to do so shall render the payor liable for the amount that the payor would have been required to pay pursuant to the contract between the payor and the beneficiary, which amount shall be due and payable within 10 days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is

entitled to pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(1) Discloses the name of the network that has a written agreement with the provider whereby the provider agrees to accept discounted rates, and describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b).

(2) Identifies the provider's written agreement with a contracting agent whereby the provider agrees to be included on lists of contracted providers sold, leased, transferred, or conveyed to payors that do not actively encourage beneficiaries to use the list of contracted providers pursuant to subdivision (c).

(g) For the purposes of this section, the following terms have the following meanings:

(1) ''Beneficiary'' means:

(A) For workers' compensation, an employee seeking health care services for a work-related injury.

(B) For automobile insurance, a named insured.

(C) For group or individual health care coverage through a health care service plan or a disability insurer, a subscriber or an insured.

(2) ''Contracting agent'' means an individual or entity, including, but not limited to, a third-party administrator or trust, a preferred provider organization, or an independent practice association, while engaged, for monetary or other consideration, in the act of selling, leasing, transferring, assigning, conveying, or arranging the availability of a provider or provider panel to provide health care services to beneficiaries. For purposes of this section, a contracting agent shall not include a health care service plan, a specialized health care service plan, an insurer licensed under the Insurance Code to provide disability, life, automobile, or workers' compensation insurance, or a self-insured employer.

(3) Except as otherwise provided in this paragraph, ''payor'' means a health care service plan, a specialized health care service plan, an insurer licensed under the

Insurance Code to provide disability, life, automobile, or workers' compensation insurance, a self-insured employer, a third-party administrator or trust, or any other third party that is responsible to pay for health care services provided to beneficiaries. However, for purposes of subdivisions (e) and (f), a payor shall not include a health care service plan, a specialized health care service plan, an insurer licensed under the Insurance Code to provide disability, life, automobile, or worker's compensation insurance, or a self-insured employer.

(4) ''Payor summary'' means a written summary that includes the payor's name and the type of plan, including, but not limited to, a group health plan, an automobile insurance plan, and a workers' compensation insurance plan.

(5) ''Provider'' means any of the following:

(A) Any person licensed or certified pursuant to this division.

(B) Any person licensed pursuant to the Chiropractic Initiative Act or the Osteopathic Initiative Act.

(C) Any person licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(D) A clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(E) Any entity exempt from licensure pursuant to Section 1206 of the Health and Safety Code.

(i) This section shall become operative on July 1, 2000.

SEC. 2. Section 1395.6 is added to the Health and Safety Code, to read:

1395.6. (a) In order to prevent the improper selling, leasing, or transferring of a health care provider's contract, it is the intent of the Legislature that every arrangement that results in any payor paying a health care provider a reduced rate for health care services based on the health care provider's participation in a network or panel shall be disclosed to the provider in advance and shall actively encourage patients to use the

network, unless the health care provider agrees to provide discounts without that active encouragement.

(b) Beginning July 1, 2000, every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care providers and their contracted reimbursement rates to a payor or another contracting agent shall, upon entering or renewing a provider contract, do all of the following:

(1) Disclose to the provider whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

(2) Disclose what specific practices, if any, payors utilize to actively encourage a payor's subscribers to use the list of contracted providers when obtaining medical care that entitles a payor to claim a contracted rate. For purposes of this paragraph, a payor is deemed to have actively encouraged its subscribers to use the list of contracted providers if one of the following occurs:

(A) The payor offers its subscribers direct financial incentives to use the list of contracted providers when obtaining medical care. ''Financial incentives'' means reduced copayments, reduced deductibles, premium discounts directly attributable to the use of a provider panel, or financial penalties directly attributable to the nonuse of a provider panel.

(B) The payor provides information to subscribers advising them of the existence of the list of contracted providers through the use of a variety of advertising or marketing approaches that supply the names, addresses, and telephone numbers of contracted providers to subscribers in advance of their selection of a health care provider, which approaches may include, but are not limited to, the use of provider directories, or the use of toll-free telephone numbers or internet web site addresses supplied directly to every subscriber. However, internet web site addresses alone shall not be deemed to satisfy the requirements of this subparagraph. Nothing in

this subparagraph shall prevent contracting agents or payors from providing only listings of providers located within a reasonable geographic range of a subscriber.

(3) Disclose whether payors to which the list of contracted providers may be sold, leased, transferred, or conveyed may be permitted to pay a provider's contracted rate without actively encouraging the payors' subscribers to use the list of contracted providers when obtaining medical care.

(4) Disclose, upon the initial signing of a contract, and within 30 calendar days of receipt of a written request from a provider or provider panel, a payor summary of all payors currently eligible to claim a provider's contracted rate due to the provider's and payor's respective written agreement with any contracting agent.

Nothing in this subdivision shall be construed to require a payor to actively encourage the payor's subscribers to use the list of contracted providers when obtaining medical care in the case of an emergency.

(c) A contracting agent shall allow providers, upon the initial signing, renewal, or amendment of a provider contract, to decline to be included in any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' subscribers to use the list of contracted providers when obtaining medical care as described in paragraph (2) of subdivision (b). Each provider's election under this subdivision shall be binding on every contracting agent or payor that buys, leases, or otherwise obtains a list of contracted providers.

(d) A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the payors' subscribers to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' subscribers to use the list of contracted providers when obtaining medical care.

(e) A payor shall provide an explanation of benefits or explanation of review that identifies the name of the network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

(f) A payor shall demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has received a claim payment from the payor. The failure of a payor to do so shall render the payor liable for the amount that the payor would have been required to pay pursuant to the applicable health care service plan contract covering the enrollee, which amount shall be due and payable within 10 days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is entitled to pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(1) Discloses the name of the network that has a written agreement with the provider whereby the provider agrees to accept discounted rates, and describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b).

(2) Identifies the provider's written agreement with a contracting agent whereby the provider agrees to be included on lists of contracted providers sold, leased, transferred, or conveyed to payors that do not actively encourage beneficiaries to use the list of contracted providers pursuant to subdivision (c).

(g) For the purposes of this section, the following terms have the following meanings:

(1) ''Contracting agent'' means a health care service plan or a specialized health care service plan, while engaged, for monetary or other consideration, in the act of selling, leasing, transferring, assigning, conveying, or

arranging the availability of a provider or provider panel to provide health care services to subscribers.

(3) ''Payor'' means a health care service plan or a specialized health care service plan.

(4) ''Payor summary'' means a written summary that includes the payor's name and the type of plan, including, but not limited to, a group health plan, an automobile insurance plan, and a workers' compensation insurance plan.

(5) ''Provider'' means any of the following:

(A) Any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

(B) Any person licensed pursuant to the Chiropractic Initiative Act or the Osteopathic Initiative Act.

(C) Any person licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2.

(D) A clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200).

(E) Any entity exempt from licensure pursuant to Section 1206.

(i) This section shall become operative on July 1, 2000.

SEC. 3. Section 10178.3 is added to the Insurance Code, to read:

10178.3. (a) In order to prevent the improper selling, leasing, or transferring of a health care provider's contract, it is the intent of the Legislature that every arrangement that results in any payor paying a health care provider a reduced rate for health care services based on the health care provider's participation in a network or panel shall be disclosed to the provider in advance and shall actively encourage patients to use the network, unless the health care provider agrees to provide discounts without that active encouragement.

(b) Beginning July 1, 2000, every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care providers and their contracted reimbursement rates to a payor or another contracting

agent shall, upon entering or renewing a provider contract, do all of the following:

(1) Disclose whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

(2) Disclose what specific practices, if any, payors utilize to actively encourage a payor's beneficiaries to use the list of contracted providers when obtaining medical care that entitles a payor to claim a contracted rate. For purposes of this paragraph, a payor is deemed to have actively encouraged its beneficiaries to use the list of contracted providers if one of the following occurs:

(A) The payor offers its beneficiaries direct financial incentives to use the list of contracted providers when obtaining medical care. ''Financial incentives'' means reduced copayments, reduced deductibles, premium discounts directly attributable to the use of a provider panel, or financial penalties directly attributable to the nonuse of a provider panel.

(B) The payor provides information to beneficiaries advising them of the existence of the list of contracted providers through the use of a variety of advertising or marketing approaches that supply the names, addresses, and telephone numbers of contracted providers to beneficiaries in advance of their selection of a health care provider, which approaches may include, but are not limited to, the use of provider directories, or the use of toll-free telephone numbers or internet web site addresses supplied directly to every beneficiary. However, internet web site addresses alone shall not be deemed to satisfy the requirements of this subparagraph. Nothing in this subparagraph shall prevent contracting agents or payors from providing only listings of providers located within a reasonable geographic range of a beneficiary.

(3) Disclose whether payors to which the list of contracted providers may be sold, leased, transferred, or conveyed may be permitted to pay a provider's

contracted rate without actively encouraging the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(4) Disclose, upon the initial signing of a contract, and within 30 calendar days of receipt of a written request from a provider or provider panel, a payor summary of all payors currently eligible to claim a provider's contracted rate due to the provider's and payor's respective written agreements with any contracting agent.

Nothing in this subdivision shall be construed to require a payor to actively encourage the payor's beneficiaries to use the list of contracted providers when obtaining medical care in the case of an emergency.

(c) A contracting agent shall allow providers, upon the initial signing, renewal, or amendment of a provider contract, to decline to be included in any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care as described in paragraph (2) of subdivision (b). Each provider's election under this subdivision shall be binding on every contracting agent or payor that buys, leases, or otherwise obtains a list of contracted providers.

(d) A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(e) A payor shall provide an explanation of benefits or explanation of review that identifies the name of the network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

(f) A payor shall demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has received a claim payment from the payor. The failure of a payor to do so shall render the payor liable for the amount that the payor would have been required to pay pursuant to the beneficiary's policy with the payor, which amount shall be due and payable within 10 days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is entitled to pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(1) Discloses the name of the network that has a written agreement with the provider whereby the provider agrees to accept discounted rates, and describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b).

(2) Identifies the provider's written agreement with a contracting agent whereby the provider agrees to be included on lists of contracted providers sold, leased, transferred, or conveyed to payors that do not actively encourage beneficiaries to use the list of contracted providers pursuant to subdivision (c).

(g) For the purposes of this section, the following terms have the following meanings:

(1) ''Beneficiary'' means:

(A) For automobile insurance, a named insured.

(B) For group or individual health care coverage through a disability insurer, an insured.

(C) For workers' compensation insurance, an employee seeking health care services for a work-related injury.

(2) ''Contracting agent'' means a self-insured employer or an insurer licensed under this code to provide disability, life, automobile, or workers' compensation insurance, while engaged, for monetary or

other consideration, in the act of selling, leasing, transferring, assigning, conveying, or arranging the availability of a provider or provider panel to provide health care services to beneficiaries.

(3) ''Payor'' means a self-insured employer or an insurer licensed under this code to provide disability, life, automobile, or workers' compensation insurance, that is responsible to pay for health care services provided to beneficiaries.

(4) ''Payor summary'' means a written summary that includes the payor's name and the type of plan, including, but not limited to, a group health plan, an automobile insurance plan, and a workers' compensation insurance plan.

(5) ''Provider'' means any of the following:

(A) Any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

(B) Any person licensed pursuant to the Chiropractic Initiative Act or the Osteopathic Initiative Act.

(C) Any person licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(D) A clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(E) Any entity exempt from licensure pursuant to Section 1206 of the Health and Safety Code.

(i) This section shall become operative on July 1, 2000.

SEC. 4. Section 4609 is added to the Labor Code, to read:

4609. (a) In order to prevent the improper selling, leasing, or transferring of a health care provider's contract, it is the intent of the Legislature that every arrangement that results in any payor paying a health care provider a reduced rate for health care services based on the health care provider's participation in a network or panel shall be disclosed to the provider in advance and shall actively encourage patients to use the

network, unless the health care provider agrees to provide discounts without that active encouragement.

(b) Beginning July 1, 2000, every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care providers and their contracted reimbursement rates to a payor or another contracting agent shall, upon entering or renewing a provider contract, do all of the following:

(1) Disclose whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

(2) Disclose what specific practices, if any, payors utilize to actively encourage beneficiaries to use the list of contracted providers when obtaining medical care that entitles a payor to claim a contracted rate. For purposes of this paragraph, a payor is deemed to have actively encouraged beneficiaries to use the list of contracted providers if the employer of the beneficiaries provides information directly to beneficiaries advising them of the existence of the list of contracted providers through the use of a variety of advertising or marketing approaches that supply the names, addresses, and telephone numbers of contracted providers to beneficiaries in advance of sustaining a workplace injury, which approaches may include, but are not limited to, the use of provider directories, the use of a posted list of all contracted providers in an area geographically accessible to the posting site, the use of wall cards that direct beneficiaries to a readily accessible listing of those providers at the same location as the wall cards, the use of wall cards that direct beneficiaries to a toll-free telephone number or internet web site address, or the use of toll-free telephone numbers or internet web site addresses supplied directly to every beneficiary. However, internet web site addresses alone shall not be deemed to satisfy the requirements of this subparagraph. Nothing in this subparagraph shall prevent contracting agents or employers from providing only listings of providers

located within a reasonable geographic range of a beneficiary.

(3) Disclose whether payors to which the list of contracted providers may be sold, leased, transferred, or conveyed may be permitted to pay a provider's contracted rate without actively encouraging the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(4) Disclose, upon the initial signing of a contract, and within 30 calendar days of receipt of a written request from a provider or provider panel, a payor summary of all payors currently eligible to claim a provider's contracted rate due to the provider's and payor's respective written agreements with any contracting agent.

Nothing in this subdivision shall be construed to require a payor to actively encourage the payor's beneficiaries to use the list of contracted providers when obtaining medical care in the case of an emergency.

(c) A contracting agent shall allow providers, upon the initial signing, renewal, or amendment of a provider contract, to decline to be included in any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care as described in paragraph (2) of subdivision (b). Each provider's election under this subdivision shall be binding on every contracting agent or payor that buys, leases, or otherwise obtains a list of contracted providers.

(d) A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(e) A payor shall provide an explanation of benefits or explanation of review that identifies the name of the

network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

(f) A payor shall demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has received a claim payment from the payor. The failure of a payor to do so shall render the payor liable for the lesser of the provider's actual fee or, as applicable, the official medical fee schedule, the official medical-legal fee schedule, or the in-patient fee schedule, which amount shall be due and payable within 10 days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is entitled to pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(1) Discloses the name of the network that has a written agreement with the provider whereby the provide agrees to accept discounted rates, and describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b).

(2) Identifies the provider's written agreement with a contracting agent whereby the provider agrees to be included on lists of contracted providers sold, leased, transferred, or conveyed to payors that do not actively encourage beneficiaries to use the list of contracted providers pursuant to subdivision (c).

(g) For the purposes of this section, the following terms have the following meanings:

(1) ''Beneficiary'' means an employee seeking health care services for a work-related injury.

(2) ''Contracting agent'' means a self-insured employer or an insurer licensed under the Insurance Code to provide workers' compensation insurance, while engaged, for monetary or other consideration, in the act

of selling, leasing, transferring, assigning, conveying, or arranging the availability of a provider or provider panel to provide health care services to beneficiaries.

(3) ''Payor'' means a self-insured employer or an insurer licensed under the Insurance Code to provide workers' compensation insurance.

(4) ''Payor summary'' means a written summary that includes the payor's name and the type of plan, including, but not limited to, a group health plan, an automobile insurance plan, and a workers' compensation insurance plan.

(5) ''Provider'' means any of the following:

(A) Any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

(B) Any person licensed pursuant to the Chiropractic Initiative Act or the Osteopathic Initiative Act.

(C) Any person licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(D) A clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(E) Any entity exempt from licensure pursuant to Section 1206 of the Health and Safety Code.

(h) This section shall become operative on July 1, 2000.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 1999

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*Governor*